IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.M.JOSEPH

THURSDAY, THE 15TH FEBRUARY 2007 / 26TH MAGHA 1928

WP(C).No. 34433 of 2006(Y)

PETITIONER:

BETTY JOHN, W/O. K.J.SUNNY,
AGED 41 YEARS, KALANCHERRY HOUSE,
P.O.MULLENKOLLY, WAYANAD-673 579.

BY ADV. SRI.R.SUDHISH,
SMT.M.MANJU.

RESPONDENTS:
----

1. **THE DIRECTOR OF PUBLIC INSTRUCTIONS,**
   TRIVANDRUM.

2. **THE DEPUTY DIRECTOR OF EDUCATION,**
   WAYANAD.

3. **THE DISTRICT EDUCATIONAL OFFICER,**
   WAYANAD, KALPETTA.

4. **THE MANAGER,**
   DEVI VILASOM VOCATIONAL HIGHER SECONDARY SCHOOL,
   VELIYAMBALAM P.O., PULPPALLY, WAYANAD-673 579.

W.P.(C). NO.34433/2006:

5. MISS. NISHA K.S.,
LANGUAGE TEACHER JUNIOR (HINDI),
DEVI VILASOM VOCATIONAL HIGHER SECONDARY SCHOOL,
VELIYAMBALAM P.O., PULPPALLY, WAYANAD-673 579.

BY ADV. SRI.M.S.UNNIKRISHNAN,
SMT.S.KARTHIKA,
SRI.M.R.ANISON,
SRI.T.R.RAJESH,
SMT.K.P.GEETHA MANI,
SRI.M.S.UNNIKRISHNAN,
GOVT. PLEADER SRI. A.J. VARGHESE.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 15/02/2007,ALONG WITH W.P.(C). NO. 4808/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

W.P.(C). NO.34433/2006:

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P.1: COPY OF THE APPOINTMENT LETTER DTD. 12/09/1990 ISSUED BY THE R.3. TO THE PETITIONER.

EXT.P.2: COPY OF THE G.O. DTD. 17/06/2005.

EXT.P.3: COPY OF THE ORDER DTD. 20/06/2006 OF THE R.3.

EXT.P.4: COPY OF THE REPESENTATION DTD. 15/07/2006 FILED BY THE PETITIONER BEFORE THE R.2.

EXT.P.5: COPY OF THE JUDGMENT DTD. 26/09/2006 IN W.P.(C). NO. 21180/2006 OF THIS HONOURABLE COURT.

EXT.P.6: COPY OF THE ORDER DTD. 10/11/2006 OF THE R.2.

EXT.P.7: COPY OF THE REPRESENTATION DTD. 04/12/2006 FILED BY THE PETITIONER BEFORE THE R.4.

//TRUE COPY//

prv.

K.M.JOSEPH, J.

- -

WP.(C) Nos.34433/2006 & 4808/2007

- -

Dated this the 15th day of February, 2007

JUDGMENT

These two writ petitions being connected, they are disposed by a common judgment.

2. The case of the petitioner in W.P.(C) 34433 of 2006 is as follows:

The petitioner in W.P.(C) 34433 of 2006 is a Rule 51A claimant. But the fifth respondent in the said writ petition is illegally appointed by the Manager. Petitioner was appointed as HSA (Hindi) vide Ext.P1 order and it is approved. Certain posts arose in the fourth respondent School. The fifth respondent was appointed. The petitioner filed a representation. It was heard by the DEO, who directed the fourth respondent to appoint the petitioner after cancelling the appointment of the fifth respondent vide Ext.P3 order. Petitioner then filed representation to the second respondent to implement Ext.P3 order. Due to non-implementation petitioner filed W.P.(C) 21180 of 2006. When the matter was admitted by this court, the Manager appeared and

the matter was disposed of directing consideration of the appeal of the Manager (Ext.P5 judgment). The appellate authority by Ext.P6 order upheld the order of the DEO. Ext.P7 was her representation to implement the order. The prayers are to direct the fourth respondent to implement Exts.P3 and P6, to declare that the appointment of the fifth respondent is illegal and to declare that petitioner is entitled to appointment as UPSA (Hindi) with effect from 17.6.2005., the date on which the fourth respondent illegally appointed the fifth respondent. There are other prayers also.

W.P.(C) 4808 of 2007 is filed by the Manager. According to him the Manger has preferred Ext.P3 before the DPI against Ext.P2 order, which is the same as Ext.P6 in the other writ petition. In such circumstances, it cannot be said that Exts.P3 and P6 in W.P.(C) 34433 of 2006 has become final.

In such circumstances, the writ petitions are disposed of as follows:

There will be a direction to the first respondent in W.P.(C) 4808 of 2007 to consider and take a decision on Ext.P3 in accordance with

law after hearing the petitioners in both the writ petitions and the fifth respondent in W.P.(C) 34433 of 2006 within a period of six weeks from the date of receipt of a copy of this judgment.

(K.M. JOSEPH, JUDGE)

sb

K.M.JOSEPH, JJ.

- - - - - - - - -- -

W.A. No. OF

- -- - - - - - - - - - - - - - -

JUDGMENT

Dated this the day of February, 2006.